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No. 73-536

Supreme Court, U. S.
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In the Supreme Court of the United States

OCTOBER TERM, 1973

ROBERT SANCHEZ, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ROBERT H. BORK,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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The sole issue presented is whether "border searches" pursuant to 19 U.S.C. 482 (Pet. 4-5) are constitutional under the Fourth Amendment.

After a jury-waived trial in the United States District Court for the Southern District of California, petitioner was convicted of importation and possession of marihuana and heroin with intent to distribute, in violation of 21 U.S.C. 841(a)(1), 952, 960 and 963. Petitioner was sentenced to five years' imprisonment and a three year special parole term. The court of appeals affirmed (Pet. App.).

Petitioner drove a pick-up truck and camper into the United States from Mexico at the San Ysidro, California, port of entry. Petitioner, his wife and his children were escorted into a secondary inspection area by a customs official. The customs official became suspicious because

an identical camper containing marihuana and heroin had been seized that day (Tr. 15-17). The customs official inspected the camper and discovered secret compartments under the bed area of the camper and in the water tank area (Tr. 21-22). The compartments were found to contain 159 kilos of marihuana and 3 and 3/4 ounces of heroin (Tr. 23-25).

Petitioner's contention that 19 U.S.C. 482, which authorizes "border searches" in connection with the entry of persons, vehicles or goods into the country, violates the Fourth Amendment is insubstantial. In *Carroll* v. *United States,* 267 U.S. 132, 155, this Court recognized the necessity and reasonableness of such searches, and they have since consistently been upheld as reasonable under the Fourth Amendment. *E.g., Alexander* v. *United States,* 362 F. 2d 379 (C.A. 9), certiorari denied, 385 U.S. 977; *Deck* v. *United States,* 395 F. 2d 89 (C.A. 9). The mere fact that a person crosses a border makes reasonable a search of his baggage, his vehicle and his personal effects. *United States* v. *Summerfield,* 421 F. 2d 684, 685 (C.A. 9).

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
Solicitor General.

NOVEMBER 1973.

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